IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATIONS Nos 8444 and 8445 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RAMILABEN SHANTILAL PALIVAR

Versus

STATE OF GUJARAT

Appearance:

MR BIPIN P JASANI for Petitioner

MS MANISHA LAVKUMAR,Ld. AGP for respondent Nos.1 to 4

None for Respondent No. 5

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 27/11/2000

COMMON ORAL JUDGEMENT

1. Heard Mr.Bipin P.Jasani, learned Advocate appearing on behalf of the petitioner and Ms.Manisha Lavkumar, learned AGP appearing on behalf of the respondents Nos.1 to 4. No one remains present on behalf

of the respondent No.5.

2. In the present petition, the petitioner has challenged the order passed by respondent No.5 dated 18th July, 1995 at Annexure "E" to the present petition and with a further prayer that the petitioner be declared eligible to get the payscale of a trained teacher w.e.f. 13-12-1976 in the payscale of Rs.290-560 and w.e.f. 1.1.1986 in the payscale of Rs.1200-2040 and further be pleased to direct the respondent authority to pay the payscale of a trained teacher to the petitioner regularly from month to month. The leaned Advocate, Mr.Jasani has submitted that the Gujarat Primary Education Tribunal has passed a common order in Application No.340/1991 to 345/1991 dated 14th June, 1995, wherein including the petitioner, other applicants before the Tribunal have been treated as an untrained teacher by the Tribunal. In pursuance of the order dated 14th June, 1995, the respondent No.5 School Authority has issued an order dated 18th July, 1995 and treated the petitioner as untrained teacher and thereby reduced the salary of the petitioner from trained teacher to untrained teacher and recovery order has been issued by the respondent No.5. Thereafter, the order dated 18th July, 1995, which has been passed by the School Authority in pursuance of the order dated 14th June, 1995 passed by the Tribunal, has been challenged in the present petition by the petitioner.

3. Mr.Jasani has submitted that one of the applicants of the group matter before the Tribunal, Prabhaben Maniklal, Application No.340/1991, has challenged the said common order passed by the Tribunal in SCA No.6641 of 1995, wherein this Court has passed an order dated 8-10-1996, quashing and setting aside the common order passed by the Tribunal and directing the respondents to make necessary orders in the event the petitioner is found to be an untrained teacher after affording an opportunity to show cause to the petitioner. The judgement and order passed by Primary Education Tribunal on 14th June, 1995 has been quashed and set aside by this Court. Therefore, Mr.Jasani, requested to this Court to pass a similar order to quash and set aside the common order passed by the Tribunal. Considering the request of learned Advocate, Mr.Jasani, the order passed by the Gujarat Primary Education Tribunal, Ahmedabad in the Applications Nos.340 of 1991 to 345 of 1991 dated 14th June, 1995 has been hereby quashed and set aside and it is further directed that the order passed by the respondent No.5, School Authority, dated 18th July, 1995 has also been quashed and set aside. However, it shall

be open to the respondents to make necessary orders in the event the petitioner is found to be an untrained teacher after affording an opportunity to show cause to the petitioner. The aforesaid order has been passed without prejudice to the rights and contention of all the parties. The present petition is allowed. Rule is made absolute to the above extent.

27-11-2000 (H.K.Rathod, J.)

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